

**TCEQ DOCKET NO. 2010-0735-IWD
TCEQ PERMIT NO. WQ0004887000**

**APPLICATION BY
SYNAGRO OF TEXAS – CDR,
INC. FOR PERMIT NO.
WQ0004887000**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Request (Response) on the application of Synagro of Texas – CDR, Inc. (the Applicant) for Permit Number WQ0004887000. Mr. David E. Rogers and Ms. Victoria T. Rogers timely filed a request for a contested case hearing.

Attached for Commission consideration are the following:

Attachment A – GIS Map

Attachment B – Affected Landowner's Map & Affected Landowner's List

Attachment C – Compliance History

Attachment D – Technical Summary and Draft Permit¹

Attachment E – December 8, 2010 Response to Public Comment

Attachment F – April 6, 2010 Response to Public Comment

II. Description of the Facility

The Applicant has applied to the TCEQ for a new permit that will authorize the beneficial land application of Class B wastewater treatment sewage sludge at a rate not to exceed 11.08 dry tons per acre per year on Fields 1 and 2, 10.89 dry tons per acre per

¹ The Technical Summary contains a typographical error. It repeats the phrase "has applied to the Texas Commission on Environmental Quality (TCEQ)." The Executive Director intends to correct the error as soon as practicable. The error is non-substantive, does not exist in the Draft Permit, and should not affect the Commissioners' decision in this matter.

year on Field 3, 11.68 dry tons per acre per year on Field 4, and 1.65 dry tons per acre per year on Field 5 on 33.6 acres located within approximately 51.82 acres. The land application site is located in the drainage basin of Colorado River below Town Lake in Segment No. 1428 of the Colorado River Basin. The draft permit does not authorize the discharge of pollutants into water in the State. The facility will be located approximately 7 miles east of Austin Bergstrom International Airport off Highway 71, south of the intersection of Richard Drive and Highway 71, in Travis County, Texas 78617.

III. Procedural Background

The application for a new permit was received on April 3, 2009 and declared administratively complete on May 19, 2009. The Notice of Receipt and Intent to Obtain a Beneficial Land Use Permit (NORI) was published on June 17, 2009 in the *Austin American-Statesman*. Notice of a Public Meeting was published on September 1, 2009 in the *Austin American-Statesman*. A public meeting was held on October 1, 2009 in the Del Valle Opportunity Center in Del Valle, Texas. The Notice of Application and Preliminary Decision (NAPD) for a Land Application Permit was published on January 6, 2010 in the *Austin American-Statesman*. The public comment period ended on February 5, 2010. The Executive Director's Response to Public Comment (RTC) was filed on April 6, 2010. The Executive Director's Final Decision Letter was mailed on April 08, 2010, and the period for filing a Request for Reconsideration or Contested Case Hearing ended on May 10, 2010.

This matter was originally set for the Commissioners' Agenda on August 11, 2010. However, on July 27, 2010, the Executive Director requested a remand so that the Applicant could properly issue alternative language notice. The matter was remanded on July 30, 2010. The Applicant published a Combined Notice of Receipt of Application and Intent to Obtain a Beneficial Land Use Permit and Notice of Application and Preliminary Decision for Land Application of Sewage Sludge on September 21, 2010 in the *Austin American-Statesman* and on September 23, 2010 in *iahora sí!*. The Executive Director requested that the Applicant re-publish notice in order to cure deficiencies relating to compliance with alternative language newspaper publication requirements in the first round of notice. The public comment ended on October 25,

2010. The Executive Director filed a second Response to Public Comments on December 8, 2010. The Executive Director's Final Decision Letter was mailed on December 13, 2010, and the period for filing a Request for Reconsideration or Contested Case Hearing ended on January 12, 2011.

This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The Application was declared administratively complete on May 19, 2009 therefore it is subject to the procedural requirement of HB 801.

A. Response to Request

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d). Responses to hearing requests must specifically address:

- a) whether the requestor is an affected person;
- b) whether issues raised in the hearing request are disputed;
- c) whether the dispute involves questions of fact or of law;
- d) whether the issues were raised during the public comment period;
- e) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- f) whether the issues are relevant and material to the decision on the application; and
- g) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. These requirements include the following:

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided...and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

30 TAC § 55.201(c).

Furthermore, a hearing request must substantially comply with the following:

- a) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible fax number, who shall be responsible for receiving all official communications and documents for the group;
- b) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a matter not common to members of the general public;
- c) request a contested case hearing;
- d) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's response to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- e) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

C. "Affected Person" Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected person." Section 55.203 sets out who may be considered an affected person.

- a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - 1) whether the interest claimed is one protected by the law under which the application will be considered;
 - 2) distance restrictions or other limitations imposed by law on the affected interest;
 - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - 5) likely impact of the regulated activity on the use of the impacted natural resource by the person; and
 - 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 50.203.

Specifically, under statute and rule, some land owners are automatically considered to be "affected" by certain, proposed land application practices. Section 361.121(c) of the Texas Health & Safety Code (THSC) reads, in pertinent part, "[A]n owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person for purposes of Section 5.115, Water Code." THSC § 361.121(c). Furthermore, 30 TAC § 312.13(b)(3)(B) provides that, for Class B sewage sludge beneficial land use permit applications, an owner of the land located within 1/4 mile of the proposed land application unit who lives on the land is considered an "affected person" for purposes of Texas Water Code (TWC) § 5.115, and 30 TAC Chapter 55 (relating to Requests for Reconsideration and Contested Case Hearings; Public Comment). Individuals who do not own land within 1/4 mile of the proposed

land application site are not excluded from being considered "affected persons" under 30 TAC § 55.203 of this title (relating to Determination of Affected Person). *See* 30 TAC § 312.13(b)(3)(B).

D. Referral to the State Office of Administrative Hearings (SOAH)

When the Commission grants a request for a contested case hearing, they are required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). Subsection 50.115(c) sets out the test for determining whether an issue may be referred to SOAH. "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application." 30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Requests

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

1. Whether the Requestors Complied with 30 TAC § 55.201(c) and (d)

David E. Rogers & Victoria T. Rogers – The public comment period for this permit application ended on October 25, 2010. The period for timely filing a request for a contested case hearing on this permit application ended on January 12, 2011. David and Victoria Rogers' comment letter and hearing request was received by the TCEQ's Office of the Chief Clerk at 10:22 a.m. on June 29, 2009. The hearing request provided 1) the requestor's names, address, and daytime phone number; 2) requested a contested

case hearing; and 3) raised relevant and material issues of fact during the comment period (i.e., nuisance odor and proximity to schools, churches, and residences).

However, the hearing request failed to identify either David or Victoria Rogers' personal justiciable interest affected by the application; nor did it include a brief written statement explaining in plain language their location and distance relative to the land application site and how and why they would be personally affected by the proposed activity in a manner not common to members of the general public.

*The Executive Director recommends that the Commission find that David E. Rogers and Victoria T. Rogers' hearing request **does not** substantially comply with 30 TAC § 55.201(d)(2).*

2. Whether the Requestors are Affected Persons

David E. Rogers & Victoria T. Rogers – David and Victoria Rogers' hearing request raised concerns regarding nuisance odor, environmental equity, and the proximity of proposed land application sites to nearby schools, churches, and residences. Both THSC § 361.121(c) and 30 TAC § 312.13 require that landowners within one-quarter mile of a proposed land application site who live on that land are considered affected persons. Individuals who do not own land within a quarter-mile of a proposed land application site are not excluded from being considered affected persons under 30 TAC § 55.203.

David and Victoria Rogers' hearing request stated that nearby schools, a nearby church, and their neighborhood would be negatively impacted by nuisance odor emanating from a wastewater treatment plant or a wastewater treatment sludge plant. The hearing request also expressed the Requestors' concern that the proposed site is located in an economically disadvantaged area in southwest Travis County, and that the neighborhood needs employment support/life skills services and training rather than a waste plant. First, the draft permit would authorize the beneficial land application of Class B sewage sludge; not the operation of a wastewater treatment plant. As previously mentioned, David and Victoria Rogers' hearing request did not describe their location and distance relative to the proposed land application site. Their address did not appear

on the Affected Landowner's Map or the Affected Landowner's List. *See Attachment B.* The GIS Map developed by the Executive Director's staff indicates that the Requestors are located approximately 1.35 miles from the proposed land application sites contained in Draft TCEQ Permit No. WQ0004887000. *See Attachment A.* As such, neither David nor Victoria Rogers have identified a personal justiciable interest that is not common to members of the general public. Due to the Requestors' distance from the proposed land application site, it is unlikely that they would be impacted by the proposed beneficial land application of Class B sewage sludge. The Requestors have failed to show how the beneficial land application of Class B sewage sludge would adversely impact their health and safety or the use of their property.

The Executive Director recommends that the Commission find that David E. Rogers and Victoria T. Rogers are not affected persons under 30 TAC § 55.203.

3. Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing

In the event the Commission finds that David E. Rogers and Victoria T. Rogers are affected persons, the ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. All identified issues in this response are considered disputed, unless otherwise noted.

1. Whether the land application of sludge at this site will create nuisance odors that will negatively impact surrounding neighborhoods?

This issue was raised and addressed in the ED's Response to Public Comment, Comment 3. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

2. Whether buffer zones for the proposed sludge application area are sufficient to protect nearby schools, churches, and residences?

This issue was raised and addressed in the ED's Response to Public Comment, Comment 3 and Comment 7. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

3. Whether the land application of sludge at this site will disproportionately affect an economically disadvantaged neighborhood?

This issue was raised and addressed in the ED's Response to Public Comment, Comment 4. It involves a question of fact that is not relevant and material to the decision on this application. The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCEQ does not have the authority to direct applicants towards the use of alternative sites. Beneficial land use permits evaluated by the agency are reviewed without reference to the socioeconomic status of the surrounding community.

The Executive Director concludes that this issue is not appropriate for referral to SOAH.

VI. Duration of the Contested Case Hearing

Should the Commission decide to refer this case to SOAH, the Executive Director recommends a six-month duration for a contested case hearing from the date of the preliminary hearing to the presentation of a proposal for decision.

VII. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

- a) Find that David E. Rogers and Victoria T. Rogers are not affected persons.
- b) Should the Commission find that any of the requestors are affected persons, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:
 - 1. Whether the land application of sludge at this site will create nuisance odors that will negatively impact surrounding neighborhoods?
 - 2. Whether buffer zones for the proposed sludge application area are sufficient to protect nearby schools, churches, and residences?

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



By _____

Daniel Ingersoll, Attorney
Environmental Law Division
State Bar No. 24062794
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-3668
(512) 239-0606 (Fax)

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 31, 2011, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Synagro of Texas – CDR, Inc. TCEQ Permit No. WQ0004887000, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Daniel Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062794

MAIL SERVICE LIST
SYNAGRO OF TEXAS – CDR, INC.
WQ PERMIT – WQ0004887000

FOR THE APPLICANT:

Greg Rogue
Aaron Dorger
Synagro of Texas – CDR, Inc.
1002 Village Square, Suite C
Tomball, Texas 77375
Tel: (281) 516-0305
Fax: (281) 516-1427

FOR THE EXECUTIVE DIRECTOR:

Via electronic mail:

Daniel Ingersoll, Staff Attorney
Texas Commission on Environmental
Quality, MC 173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Bijaya Chalise, Technical Staff
Texas Commission on Environmental
Quality, Water Quality Div. MC 148
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-4545
Fax: (512) 239-4430

FOR PUBLIC INTEREST COUNSEL:

Via electronic mail:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental
Quality, Public Interest Counsel,
P.O. Box, 13087, MC 103
Austin, Texas 78711
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC
ASSISTANCE:

Via electronic mail:

Ms. Bridget Bohac, Director
Texas Commission on Environmental
Quality, Office of Public Assistance,
P.O. Box 13087, MC 108
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

FOR ALTERNATIVE DISPUTE
RESOLUTION:

Via electronic mail:

Mr. Kyle Lucas
Texas Commission on Environmental
Quality, Alternative Dispute Resolution
P.O. Box 13087, MC 222
Austin, Texas 78711
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental
Quality, Office of the Chief Clerk,
P.O. Box 13087, MC 105
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

REQUESTER:

David & Victoria Rogers
3919 Caldwell lane
Del Valle, Texas 78617-3021

ATTACHMENT A

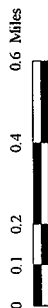
GIS MAP

Synagro of Texas - CDR, Inc.
TCEQ Permit No. WQ0004887000
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



Texas Commission on Environmental Quality
 GIS Team (Mail Code 197)
 P.O. Box 13087
 Austin, Texas 78711-3087

July 14, 2010



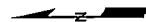
Projection: Texas Statewide Mapping System
 (TSM/S)
 Scale 1:30,000

Legend

- Sludge Application Site
- ⊙ Protestant's Property

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project.

This map depicts the following:
 (1) The approximate location of the application site. This is labeled "4887".
 (2) Polygon depicting 1-mile buffer. This is labeled "1-Mile Radius of 4887".
 (3) Polygon depicting 1/4-mile buffer. This is labeled "1/4-Mile Radius of 4887".
 (4) Polygons depicting 200-foot buffers. These are labeled "200-Ft. Buffer".
 (5) Dot representing the approximate location of the protestant. This is labeled with the protestant's name.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-4800.

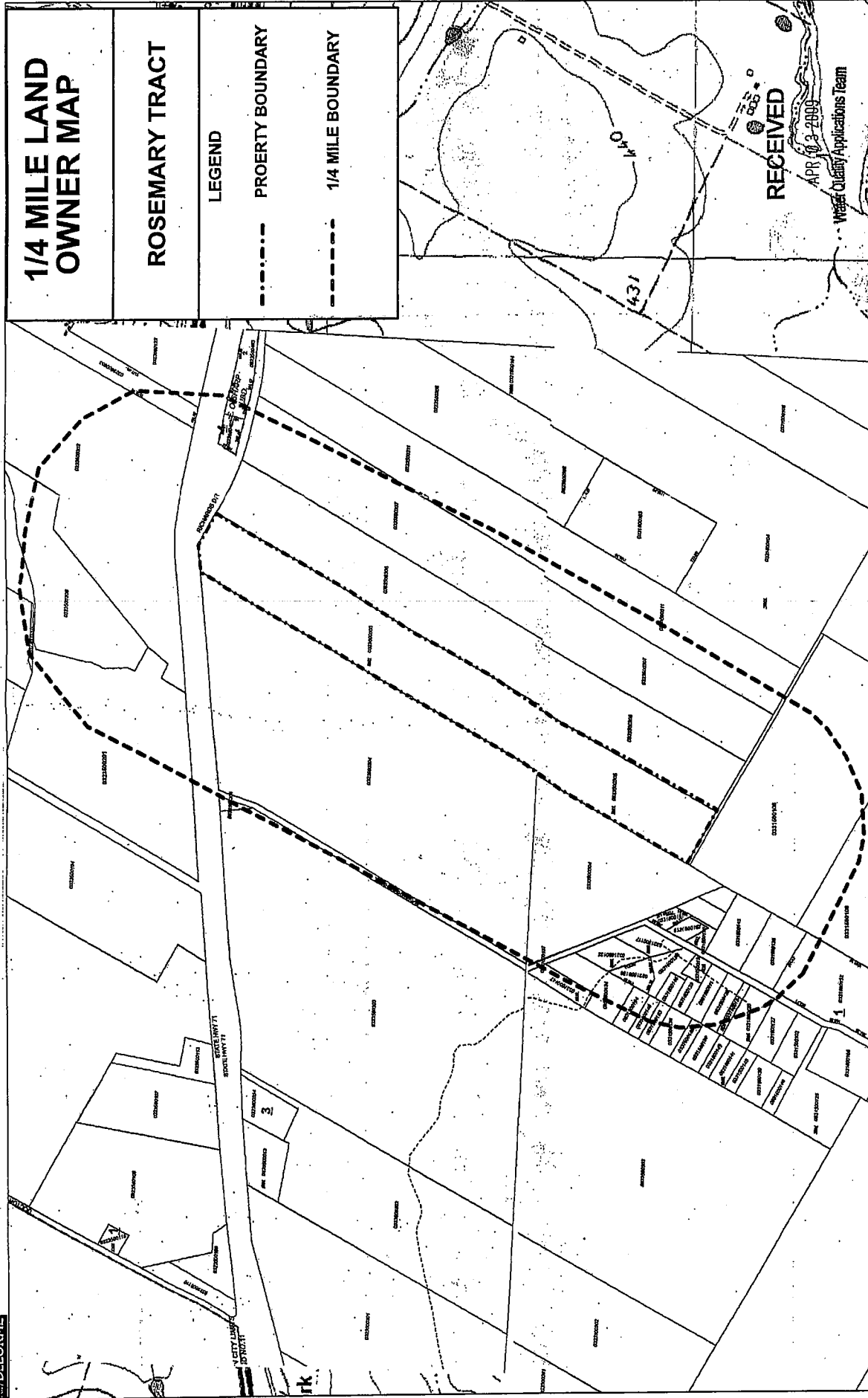
1/1 McDonough CRP-323716



The facility is located in Travis County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Travis County in the state of Texas. Travis County is shaded in red.

ATTACHMENT B

**AFFECTED LANDOWNER'S MAP
AND AFFECTED LANDOWNER'S
LIST**



Rosemary
¼ Mile Radius Landowners

NUMBER	LANDOWNER
REF# 03235003060000	RICHARDS JOHN III 15409 RICHARDS DR DEL VALLE, TX 78617-3262
REF# 03235003040000 REF# 03315001370000	HARWELL VADA ETAL 2709 PARK VIEW AUSTIN, TX 78757-2338
REF# 03315001470000 REF# 03315001240000	DEL TORO JESSE & JANET 4832 HWY 71 E UNIT A DEL VALLE, TX 7617-3255
REF# 03315001640000	PRIETO JAMIE 1001 VASQUEZ ST AUSTIN, TX 78741-3571
REF# 03315001480000	RODRIGUEZ FELIX & HORTENCIA V PO BOX 832 EL VALLE, TX 78617-0832
REF# 03315001530000	OJEDA - HERNANDEZ GENEVA 149 HIGHRIDGE DR DEL VALLE, TX 78617
REF# 03315001380000 REF# 03315001460000	REYES CARMELO & ELEASAR PO BOX 874 DEL VALLE, TX 78617-0874
REF# 03315001420000	CONTRERAS ISMAEL 4832 HWY 71 E # 0 DEL VALLE, TX 78617-3289
REF# 03315001590000	MENDEZ MARIA DEL ROSARIO 7200 ANTOINE CIR AUSTIN, TX 78744-6001
REF# 03315001270000	TOMAS MUCEDO BENITEZ 406 W ODELL ST AUSTIN, TX 78752-2408
REF# 03315001280000 REF# 03315001320000 REF# 03315001170000	REYES REYNALDO & MARIA ILCE 5316 NAVARRO CREEK RD DEL VALLE, TX 78617
REF# 03315001340000	REYES ELIODORO & HERMELINDA 4832 HWY 71 E UNIT T DEL VALLE, TX 78617-3256
REF# 03315001290000	NUNEZ ESTHER GALVAN PO BOX 401 DEL VALLE, TX 78617-0401
REF# 03315001110000	VARGAS SATURNINO 5300 NAVARRO CREEK DEL VALLE, TX 78617-4002

Rosemary
¼ Mile Radius Landowners

REF# 03315001330000	STANLEY ELIDA MARIA PO BOX 517 DEL VALLE, TX 78617-0517
REF# 03315001360000	PLAZA MARCO & ROSA MEZA 5326 NAVARRO CREEK DEL VALLE, TX 78617-4002
REF# 03315001560000	RICO ALBERTO C & IRENE RICO 6308 SANTOS ST AUSTIN, TX 78741-5202
REF# 03315001520000	RAY BENNIE 710 W 14 TH ST STE C AUSTIN, TX 78701-1798
REF# 03315001260000	MARTIN A E PO BOX 1403 ROUND ROCK, TX 78680-1403
REF# 03315001430000	HELM TIMOTHY 5213 NAVARRO CREEK DEL VALLE, TX 78617-4001
REF# 0331500150000	GARFIA GUILLERMINA 3408 E 12 TH ST AUSTIN, TX 78721-1004
REF# 03315001570000	CRUZ RICHARD & CLARA HERNANDEZ 5201 NAVARRO CREEK RD DEL VALLE, TX 78617-4001
REF# 03315001610000	AYALA RAQUEL 6200 NAVARRO CREEK RD DEL VALLE, TX 78617
REF# 03235004020000 REF# 03235004030000	SHARP E O & I E FAMILY 515 HIGHWAY 71 W BASTROP, TX 78602-3869
REF# 03315001090000 REF# 03315001080000	DANLANDCO LTD % RANDALL T COX 2514 WESTLAKE DR AUSTIN, TX 78746-2927
REF# 03235003070000	WILLIAMS RUSSELL VANCE & BARBARA JONES 4605 COBBLER CV RICHARDS, TX 78744-2919
REF# 03235003060001	RICHARD JOHN III 15409 RICHARDS DR DEL VALLE, TX 78617-3262
REF# 03235003110000	LINSCOMB HORACE G JR & ALICE M 505 ROCKY RIVER RD AUSTIN, TX 78746-5341
REF# 03315001110000	VARGAS SATURNINO 5300 NAVARRO CREEK RD DEL VALLE, TX 78617-4002

Rosemary ¼ Mile Radius Landowners

[illegible]

ATTACHMENT C

COMPLIANCE HISTORY

Compliance History

Customer/Respondent/Owner-Operator:	CN601307630 Synagro of Texas-CDR, Inc.	Classification: AVERAGE	Rating: 1.77
Regulated Entity:	RN105718084 ROSEMARY TRACT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER PERMIT	WQ0004887000	
Location:	15309 RICHARDS DR, DEL VALLE, TX, 78617		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	January 20, 2011		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	April 03, 2004 to January 20, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Bijaya Chalise	Phone:	239 - 4545

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
....
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

ATTACHMENT D

**TECHNICAL SUMMARY AND DRAFT
PERMIT**

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: Synagro of Texas-CDR, Inc.

TCEQ Permit No.: WQ0004887000

Regulated Activity: Beneficial Land Application of Wastewater Treatment Plant (WWTP) Sewage Sludge

Type of Application: Permit

Request: New

Authority: Texas Water Code §26.027; 30 TAC Chapters 281, 305, 312, and Texas Health and Safety Code (THSC) §361.121; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit will expire five years from the date of issuance in accordance with 30 TAC Chapter 312, and THSC section 361.121.

REASON FOR PROJECT PROPOSED

Synagro of Texas-CDR, Inc. has applied to the Texas Commission on Environmental Quality (TCEQ) has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Permit No. WQ0004887000 to authorize the beneficial land application of sewage sludge from wastewater treatment plants at a rate not to exceed 11.08 dry tons/acre/year on Fields 1 and 2, 10.89 dry tons/acre/year on Field 3, 11.68 dry tons/acre/year on Field 4, and 1.65 dry tons/acre/year on Field 5.

PROJECT DESCRIPTION AND LOCATION

The land application site will be located approximately 7 miles east of Austin Bergstrom International Airport off of Richards Drive, 300 feet south of Highway 71, in Travis County, Texas 78617. No discharge of pollutants into water in the State is authorized by this permit.

PROPOSED PERMIT CONDITIONS

Sludge Provisions are included in the draft permit according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the land application of sewage sludge for beneficial use on 33.6 acres.

SUMMARY OF CHANGES FROM APPLICATION

The land application area was reduced from 45 acres to 33.6 acres to provide for sufficient buffer zones from surface water features on the site.

SUMMARY OF GROUNDWATER REVIEW RECOMMENDATIONS/CHANGES

The permittee shall not exceed a daily sludge application rate of 0.5 dry tons/acre/day, with an annual application rate not to exceed that indicated in the permit.

Permanent markers shall be installed to indicate required buffers from all surface water features. An elevation survey of the area, aerial photographs of the area, or other resources may be used to determine the outline of the buffered areas.

The applicant shall notify the TCEQ Austin Regional Office (Region 11) prior to the land application of sludge in order to verify the buffer setbacks for all surface water features.

SUMMARY OF CHANGES FROM EXISTING PERMIT

None. This is a new permit.

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

1. Application submitted with letter dated April 3, 2009, and additional information submitted with letter dated May 14, 2009, June 15, 2009, October 27, 2009, November 2, 2009 and November 24, 2009.
2. Interoffice Memorandum from the TCEQ Regional Office (MC Region 11), Water Quality Assessment Team, Water Quality Division.

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

Synagro of Texas-CDR, Inc.

Permit No. WQ0004887000

Technical Summary and Executive Director's Preliminary Decision

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application, contact Mr. Bijaya R. Chalise at (512) 239-4545.

Bijaya R. Chalise

Bijaya R Chalise
Municipal Permits Team
Wastewater Permitting Section (MC 148)

11/30/09
Date



PERMIT NO. WQ0004887000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, Texas 78711-3087

PERMIT TO LAND APPLY SEWAGE SLUDGE
under provisions of Chapter 26 of the Texas Water Code,
Chapter 361 of Health and Safety Code, Chapter 312 of Texas Administrative Code.

I. PERMITTEE:

Synagro of Texas-CDR, Inc.
1002 Village Square Drive, Suite C
Tomball, Texas 77375

II. AUTHORIZATION:

Beneficial Land Application of Wastewater Treatment Plant (WWTP) sewage sludge

III. GENERAL DESCRIPTION AND LOCATION OF SITE:

Description: The permittee is authorized to land apply WWTP sewage sludge at an annual rate not to exceed 11.08 dry tons/acre/year on Fields 1 and 2, 10.89 dry tons/acre/year on Field 3, 11.68 dry tons/acre/year on Field 4, and 1.65 dry tons/acre/year on Field 5 on 33.6 acres located within approximately 51.82 acres at this site.

Location: The sewage sludge land application site is located approximately 7 miles east of Austin Bergstrom International Airport off of Richards Drive, 300 feet south of Highway 71, in Travis County, Texas 78617 (see Attachment A).

SIC Code: 0139

Drainage Basin: The land application site is located in the drainage basin of Colorado River Below Town Lake in Segment No. 1428 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight, five years from the date of issuance listed below.

ISSUED DATE:

For the Commission

IV. GENERAL REQUIREMENTS:

- A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
- B. Application for renewing this permit shall be submitted by the permittee at least 180 days prior to expiration date of this permit.
- C. WWTP sludge
1. In all cases, the generator or processor of sewage sludge shall provide necessary analytical information to the parties who receive the sludge, including those receiving the sewage sludge for land application, to assure compliance with these regulations.
 2. Permittee shall not accept the sewage sludge that fails the Toxicity Characteristic Leaching Procedure (TCLP) test per the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24.
 3. Sewage sludge shall not be applied to the land if the concentration of any metal exceeds the ceiling concentration listed in Table 1 below. Additional information on the frequency of testing for metals is found in Section IX.

TABLE 1

Pollutant	Ceiling Concentration (milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

* Dry weight basis

4. When the total aggregate amount of any metal in Table 2 (in all sludge applied at the site during the entire use of this site) reaches the cumulative level listed in table 2 below, only sludge with metal levels at or below those shown Table 3 below can be applied at the site. To compute this criteria, the total amount of each metal in all sludge applied must be summed on a continuing basis as sludge is applied.

Table 2

Pollutant	Cumulative Pollutant Loading Rate (pounds per acre)
Arsenic	36
Cadmium	35
Chromium	2677
Copper	1339
Lead	268
Mercury	15
Molybdenum	Report Only
Nickel	375
Selenium	89
Zinc	2500

* Dry weight basis

Table 3

Pollutant	Concentration milligrams per kilogram)*
Arsenic	41
Cadmium	39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	Report Only
Nickel	420
Selenium	36
Zinc	2800

5. Sludge also cannot be applied in excess of the most restrictive of the following criteria:
 - a. The maximum sludge application rate (MSAR) based on crop nitrogen needs (also referred to as the agronomic rate), which is calculated based on the total amount of nitrogen in the sludge, septage and in the soils at the application site and on the nitrogen requirements of the vegetation in the application area.
 - b. The MSAR for each metal pollutant in Table 1 above, which is calculated individually for each metal based on its concentration in the sludge and in the soils in the application area.
6. All of the MSARs above must be calculated using Appendix A of the "Application for Permit for Beneficial Land Use of Sewage Sludge." These calculations must cover both sludge and septage for areas where both are applied. If sludge is received from multiple sources, the average concentration of each of the elements above must be determined using "Table 2 - Volume Weighted Average (Mean) of Nutrient and Pollutant Concentration" from the application form.
7. Anytime the permittee plans to accept WWTP sludge from any source(s) other than those listed in the application and approved for this permit, the permittee must notify and receive authorization from the Water Quality Division, Municipal Permits Team(MC 148) of the TCEQ prior to receiving the new sludge. The notification must include information to demonstrate the sludge from the proposed new source(s) meets the requirements of this permit. The permittee must provide certifications from each source that the sludge meets the requirement for a Process to Significantly Reduce Pathogens (PSRP) or other alternatives. The permittee must provide documentation that the sludge meets the limits for polychlorinated biphenyls (PCBs), vector attraction and the metal pollutants in Table 1 above. No sludge from sources other than the ones listed in the application can be land applied prior to receiving written authorization from the TCEQ.

- D. The permittee shall maintain a commercial liability insurance policy for the duration of the permit that:
1. is issued by an insurance company authorized to do business in this state that has a rating by the A.M. Best Company of A- or better;
 2. designates the commission as an additional insured; and
 3. is in an amount of not less than \$3 million.
- E. The permittee shall maintain an environmental impairment insurance policy for the duration of the permit that:
1. is issued by an insurance company authorized to do business in this state that has a rating by the A.M. Best Company of A- or better;
 2. designates the commission as an additional insured; and
 3. is in an amount of not less than \$3 million.

V. OPERATIONAL REQUIREMENTS:

The operation and maintenance of this land application site must be in accordance with 30 TAC Chapter 312 and Title 40 of the Code of Federal Regulations (40 CFR) Part 503 as they relate to land application for beneficial use. All applicable local and county ordinances must also be followed.

VI. REQUIRED MANAGEMENT PRACTICES:

- A. Sludge applications must not cause or contribute to the harm of a threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species.
- B. Sludge must not be applied to land that is flooded, frozen or snow-covered to prevent entry of bulk sewage sludge into wetland or other waters in the State.
- C. Sludge shall be land applied in a manner which complies with Management Requirements in accordance with 30 TAC Section 312.44 including maintaining the following buffer zones for each application area:
- | | |
|---|----------|
| a. Established school, institution, business or residence | 750 feet |
| b. Public water supply well, intake, public water supply spring or similar source, public water treatment plant, or public water supply elevated or ground storage tank | 500 feet |
| c. Solution channels, sinkholes, or other conduits to groundwater | 200 feet |
| d. Waters in the State of Texas - when septage is not incorporated | 200 feet |
| e. Waters in the State of Texas - when septage is incorporated within 48 hours of application and a vegetated cover is established | 33 feet |
| f. Private water supply well | 150 feet |
| g. Public right of way | 50 feet |
| h. Property boundary | 50 feet |
| i. Irrigation conveyance canals | 10 feet |
- D. Sludge must be applied to the land at an annual application rate that is equal to or less than the agronomic rate for the vegetation in the area on which the sludge is applied. The calculation of this rate must include both the sludge that is to be applied.

- E. The seasonally high water table, groundwater table, or depth to water-saturated soils must be at least three (3) feet below the treatment zone for soils with moderate to slow permeability (less than two inches per hour) or four (4) feet below the treatment zone for soils with rapid to moderately rapid permeability (between two and twenty inches per hour). Sludge can not be applied to soils with permeation rates greater than twenty inches per hour.
- F. Sludge must be applied by a method and under conditions that prevent runoff beyond the active application area and that protect the quality of the surface water and the soils in the unsaturated zone. In addition the following conditions must be met:
1. Sludge must be applied uniformly over the surface of the land.
 2. Sludge must not be applied to areas where permeable surface soils are less than 2 feet thick.
 3. Sludge must not be applied during rainstorms or during periods in which surface soils are water-saturated.
 4. Sludge must not be applied to any areas having a slope in excess of 8%.
 5. Where runoff from the active application area is evident, the operator must cease further sludge application until the condition is corrected.
 6. The site operator must prevent public health nuisances. Sludge debris must be prevented from leaving the site. Where nuisance conditions exist, the operator must eliminate the nuisance as soon as possible.
 7. Sludge application practices must not allow uncontrolled public access, so as to protect the public from potential health and safety hazards at the site.
 8. Sludge can be applied only to the land application area shown on Attachment B. The buffer zones as listed on that map as well as the buffer zone distances listed in section VI.C. must not have any sludge applied on them.
- G. The permittee shall post a sign that is visible from a road or sidewalk that is adjacent to the premises on which the land application unit is located stating that a beneficial land use application site is located on the premises.

VII. PATHOGEN CONTROL:

- A. All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following methods to ensure that the sludge meets either the Class A or Class B pathogen requirements.

1. Six alternatives are available to demonstrate compliance with Class A sewage sludge.

The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. Below are the additional requirements necessary to meet the definition of a Class A sludge.

Alternative 1 The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC §312.82(a)(2)(A) for specific information.

Alternative 2 The pH of the sewage sludge that is used or disposed shall be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12 std. units.

At the end of the 72-hour period during which the pH of the sewage sludge is above 12 std. units, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

Alternative 3 The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC §312.82(a)(2)(C)(i-iii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC §312.82(a)(2)(C)(iv-vi) for specific information.

Alternative 4 The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

Alternative 5 Processes to Further Reduce Pathogens (PFRP) - Sewage sludge that is used or disposed of shall be treated in one of the processes to Further Reduce Pathogens (PFRP) described in 40 CFR Part 503, Appendix B. PFRP include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall be treated in a process that has been approved by the U. S. Environmental Protection Agency as being equivalent to those in Alternative 5.

2. Three alternatives are available to demonstrate compliance with Class B' criteria for sewage sludge.

Alternative 1 i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.

ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 Sewage sludge that is used or disposed of shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 40 CFR Part 503, Appendix B, so long as all of the following requirements are met by the generator of the sewage sludge.

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

- ii. An independent Texas Licensed Professional Engineer must provide a certification to the generator of sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;
- iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U. S. Environmental Protection Agency final guidance;
- iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and
- v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

Alternative 3

Sewage sludge shall be treated in an equivalent process that has been approved by the U. S. Environmental Protection Agency, so long as all of the following requirements are met by the generator of the sewage sludge.

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U. S. Environmental Protection Agency final guidance;
- iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;
- iv. The executive director will accept from the U. S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

B. In addition, the following site restrictions must be met if Class B sludge is land applied:

1. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
2. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
3. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.
4. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.
5. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
6. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.
7. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.
8. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
9. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC §312.44.

VIII. VECTOR ATTRACTION REDUCTION REQUIREMENTS:

- A. All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following alternatives for Vector Attraction Reduction.

Alternative 1 The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent [30 TAC §312.83(b)(1)].

Alternative 2 If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance [30 TAC §312.83(b)(2)].

- Alternative 3 If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance [30 TAC §312.83(b)(3)].
- Alternative 4 The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius. This test may only be run on sludge with a total percent solids of 2.0% or less [30 TAC §312.83(b)(4)].
- Alternative 5 Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius [30 TAC §312.83(b)(5)].
- Alternative 6 The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container [30 TAC §312.83(b)(6)].
- Alternative 7 The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process [30 TAC §312.83(b)(7)].
- Alternative 8 The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process [30 TAC §312.83(b)(8)].
- Alternative 9 Sewage sludge shall be injected below the surface of the land. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process [30 TAC §312.83(b)(9)].
- Alternative 10 Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process [30 TAC §312.83(b)(10)].

IX. MONITORING REQUIREMENTS:

The sewage sludge must be monitored according to 30 TAC §312.46(a)(1) for the ten metals in Table 1 of Section IV.C.3, pathogen reduction, and vector attraction reduction.

- A. If the concentration of nitrogen or any of the metals in Table 1 in Section IV.C.3 exceeds the concentration used to calculate any of the MSARs in Sections IV.C.5 and IV.C.6, the MSAR for that element must be recalculated. If the sludge comes from multiple sources, the calculations must use Table 2 in Section IV.C.4 to provide a volume weighted average of all sludge that will be applied during the current monitoring period.
- B. After the sludge has been monitored according to 30 TAC §312.46(a)(1) for a period of two years, an application may be submitted to amend this permit to reduce the frequency of monitoring.
- C. The frequency of monitoring will be increased if recalculation of the agronomic rate increases the amount of sludge that can be applied to a higher threshold, as shown in 30 TAC §312.46(a)(1). The frequency of monitoring may also be increased if the TCEQ determines that the level of pollutants or pathogens in the sludge warrants such action.
- D. If WWTP and WTP sludge is received at this site for land application then the permittee must ensure that the test data for TCLP and PCBs is provided from the generators.
- E. All metal constituents and Fecal coliform or Salmonella sp. bacteria shall be monitored at the appropriate frequency pursuant to 30 TAC §312.46(a)(1).
- F. Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC §312.7.
- G. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

X. RECORD KEEPING REQUIREMENTS:

The permittee shall fulfill record keeping requirements per 30 TAC §312.47. The documents shall be retained at the site and/or shall be readily available for review by a TCEQ representative.

- A. Records of the following general information must be kept for all types of sludge and land application permits:
 - 1. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC §312.47(a)(4)(A)(ii) or 30 TAC §312.47(a)(5)(A)(ii), whichever is applicable.
 - 2. The location, by street address, and specific latitude and longitude, of each site on which sewage sludge is applied.
 - 3. The number of acres in each site on which bulk sludge is applied.
 - 4. The dates, times and quantities of sludge is applied to each site.
 - 5. The cumulative amount of each pollutant in pounds per acre listed in Table 2 of Section IV.C.4 applied to each site.

6. The total amount of sludge applied to each site in dry tons.
 7. A description of how the management practices listed above in Section IV.C., and 30 TAC §312.44 are being met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(viii).
- B. For Sewage Sludge with metal concentrations at or below levels in Table 3 of Section IV.C.4; which also meets Class A pathogen requirements in 30 TAC §312.82(a), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. A description of how the vector attraction reduction requirements are met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).
- C. For Sewage Sludge with metal concentrations at or below levels in Table 3 of Section IV.C.4; and which also meets Class B pathogen requirements in 30 TAC §312.82(b), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. A description of how site restrictions for Class B sludge in 30 TAC §312.82(b)(3) are being met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(x).
 2. A description of how the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).
- D. For Sewage Sludge with metal concentrations at or below levels in Table 1 of Section IV.C.3; and which also meets Class B pathogen requirements in 30 TAC §312.82(b), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. A description of how the requirements to obtain information from the generators of sludge in 30 TAC §312.42(e) are being met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(vi).
 2. A description of how site restrictions for Class B sludge in 30 TAC §312.82(b)(3) are being met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(x).
 3. A description of how the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).

XI. REPORTING REQUIREMENTS:

- A. Permittee shall submit a separate annual report by September 30th of each year per 30 TAC §312.48 for each site. The annual report must include all the information required under 30 TAC §312.48 (including the items listed below) for a period covering September 1st of previous year through August 31st of current year. Additionally an "Annual Sludge Summary Report Form" (Attachment C) should be filled out and submitted with the annual report. Submit your report to the Water Quality Division, Municipal Permits Team (MC 148) and the TCEQ Regional Office (MC Region 11). Record retention requirements must be followed in accordance with 30 TAC §312.47.
1. Annual Sludge Summary Sheet (a blank form is provided in Attachment C of this permit) with following information. This information must be submitted by all permittees:

- i. Permit number.
 - ii. The site location (address or latitude and longitude).
 - iii. Operator address, contact person name, telephone number, and fax number.
 - iv. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
 - v. Number of acres on which sludge and septage is land applied.
 - vi. Vegetation grown and number of cuttings.
 - vii. Other items listed in the summary sheet.
2. If the sludge concentration for any metal listed in Table 3 of Section IV.C.4 is exceeded, the report must include the following information:
- i. Date and time of each sludge application.
 - ii. All four certification statements required under 30 TAC §312.47(a)(5)(B).
 - iii. A description of how the information from the sludge generator was obtained, as per 30 TAC §312.42(e).
 - iv. A description of how each of the management practices in 30 TAC §312.44 were met for this site.
 - v. A description of how the site restrictions in 30 TAC §312.82(b)(3) were met for the site.
 - vi. If the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met, a description of how this was done.
 - vii. Soil and sludge test reports, as required in Section XII of this permit.
 - viii. Calculations of the current agronomic sludge application rate and the life of the site based on metal loadings (Appendix A of application, as identified in Section IV.C.4, or similar form).
3. If none of the concentrations for the metals exceed the values listed in Table 3 in Section IV.C.4 of this permit:
- i. Information per 30 TAC §312.47(a)(3)(B) for Class A sludge.
 - ii. Information per 30 TAC §312.47(a)(4)(B) for Class B Sludge.
4. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2 in Section IV.C.4 of this permit the permittee shall provide the following additional information:
- i. Date and time of each sludge application.
 - ii. The information in 30 TAC §312.47(a)(5)(A) must be obtained from the sludge generator and included in the report.

- iii. The cumulative amount in pounds per acre of each pollutant listed in Table 2 in Section IV.C.4 applied to each application field of this site through bulk sewage sludge.
5. Permittee shall submit evidence that the permit holder is complying with the nutrient management plan developed by a certified nutrient management specialist in accordance with the practice standards of the Natural Resources Conservation Service of the United States Department of Agriculture.
- B. Permittee shall submit a quarterly report by the 15th day of the month following each quarter during the reporting period (ie. quarterly reports will be due December 15th, March 15th, June 15th, and September 15th). Additionally, a "Quarterly Sludge Summary Report Form" (Attachment D) should be filled out and submitted with the quarterly report. The quarterly report must include all the information listed below. Submit your report to the Water Quality Division, Municipal Permits Team (MC 148) and the TCEQ Regional Office (MC Region 11). Record retention requirements must be followed in accordance with 30 TAC §312.47.
 1. The source, quality, and quantity of sludge applied to the land application unit.
 2. The location of the land application unit, either in terms of longitude and latitude or by physical address, including the county.
 3. The dates of delivery of Class B sludge.
 4. The dates of application of Class B sludge.
 5. The cumulative amount of metals applied to the land application unit through the application of Class B sludge.
 6. Crops grown at the land application unit site.
 7. The suggested agronomic application rate for the Class B sludge.

XII. SOIL SAMPLING:

The permittee is required to notify the local TCEQ Regional Office 48 hours prior to taking annual soil samples at the permitted site. Samples will need to be taken within the same 45 day time-frame each year, or by an approved sampling plan and analyzed within 30 days of procurement.

The permittee must monitor the soil-sludge/septage mixture for the site as follows using soil sampling requirements described in 30 TAC §312.11(d)(2) and (3):

No.	PARAMETER	NOTE	FREQUENCY	SAMPLE DEPTH	
				0" - 6"	6" - 24"
1.	Nitrate Nitrogen (NO ₃ -N, mg/kg)		1 per year	X	X
2.	Ammonium Nitrogen (NH ₄ -N, mg/kg)		1 per year	X	X
3.	Total Nitrogen (TKN, mg/kg)	1	1 per year	X	X
4.	Phosphorus (plant available, mg/kg)	2	1 per year	X	X
5.	Potassium (plant available, mg/kg)	2	1 per year	X	X
6.	Sodium (plant available, mg/kg)	2	1 per year	X	X
7.	Magnesium (plant available, mg/kg)	2	1 per year	X	X
8.	Calcium (plant available, mg/kg)	2	1 per year	X	X
9.	Electrical Conductivity	3	1 per year	X	X
10.	Soil Water pH (S.U.)	4	1 per year	X	X
11.	Total Arsenic (mg/kg)	*	1 per 5 years	X	N/A
12.	Total Cadmium (mg/kg)	*	1 per 5 years	X	N/A
13.	Total Chromium (mg/kg)	*	1 per 5 years	X	N/A
14.	Total Copper (mg/kg)	*	1 per 5 years	X	N/A
15.	Total Lead (mg/kg)	*	1 per 5 years	X	N/A
16.	Total Mercury (mg/kg)	*	1 per 5 years	X	N/A
17.	Total Molybdenum (mg/kg)	*	1 per 5 years	X	N/A
18.	Total Nickel (mg/kg)	*	1 per 5 years	X	N/A
19.	Total Selenium (mg/kg)	*	1 per 5 years	X	N/A
20.	Total Zinc (mg/kg)	*	1 per 5 years	X	N/A

1. Determined by Kjeldahl digestion or an equivalent accepted procedure. Methods that rely on Mercury as a catalyst are not acceptable.
 2. Mehlich III extraction (yields plant-available concentrations) with inductively coupled plasma.
 3. Electrical Conductivity (EC) - determine from extract of 2:1 (volume/volume) water/soil mixture and expressed in ds/m (same as mmho/cm).
 4. Soil pH must be analyzed by the electrometric method in "Test Methods for Evaluating Solid Waste," EPA SW-846, 40 CFR 260.11; method 9045C - determine from extract of 2:1 (volume/volume) water/soil mixture.
- * Analysis for metals in soil must be performed according to methods outlined in "Test Methods for Evaluating Solid Waste," EPA SW-846; method 3050.

XIII. STANDARD PROVISIONS:

- A. This permit is granted in accordance with the Texas Water Code, Health and Safety Code, and the rules and other Orders of the Commission and the laws of the State of Texas.
- B. Unless specified otherwise, any noncompliance which may endanger human health or safety, or the environment shall be reported to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided to the TCEQ Regional Office (MC Region 11) and to the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- C. Any noncompliance other than that specified in the Standard Provision B, or any required information not submitted or submitted incorrectly, shall be reported to the TCEQ Enforcement Division (MC 224) as promptly as possible.
- D. Acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, limitations and restrictions embodied in this permit and with the rules and other Orders of the Commission and the laws of the State of Texas. Agreement is a condition precedent to the granting of this permit.
- E. Prior to any transfer of this permit, Commission approval must be obtained. The Commission must be notified, in writing, of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- F. The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.
- G. The permittee is subject to the provisions of 30 TAC §305.125.
- H. The permittee shall remit to the Commission annual fees per 30 TAC §312.9. Failure to pay the fees on time may result in revocation of this permit.
- I. This permit does not become a vested right in the permit holder.
- J. The permittee may not accept Class B sludge unless the sludge has been transported to the land application unit in a covered container with the covering firmly secured at the front and back.

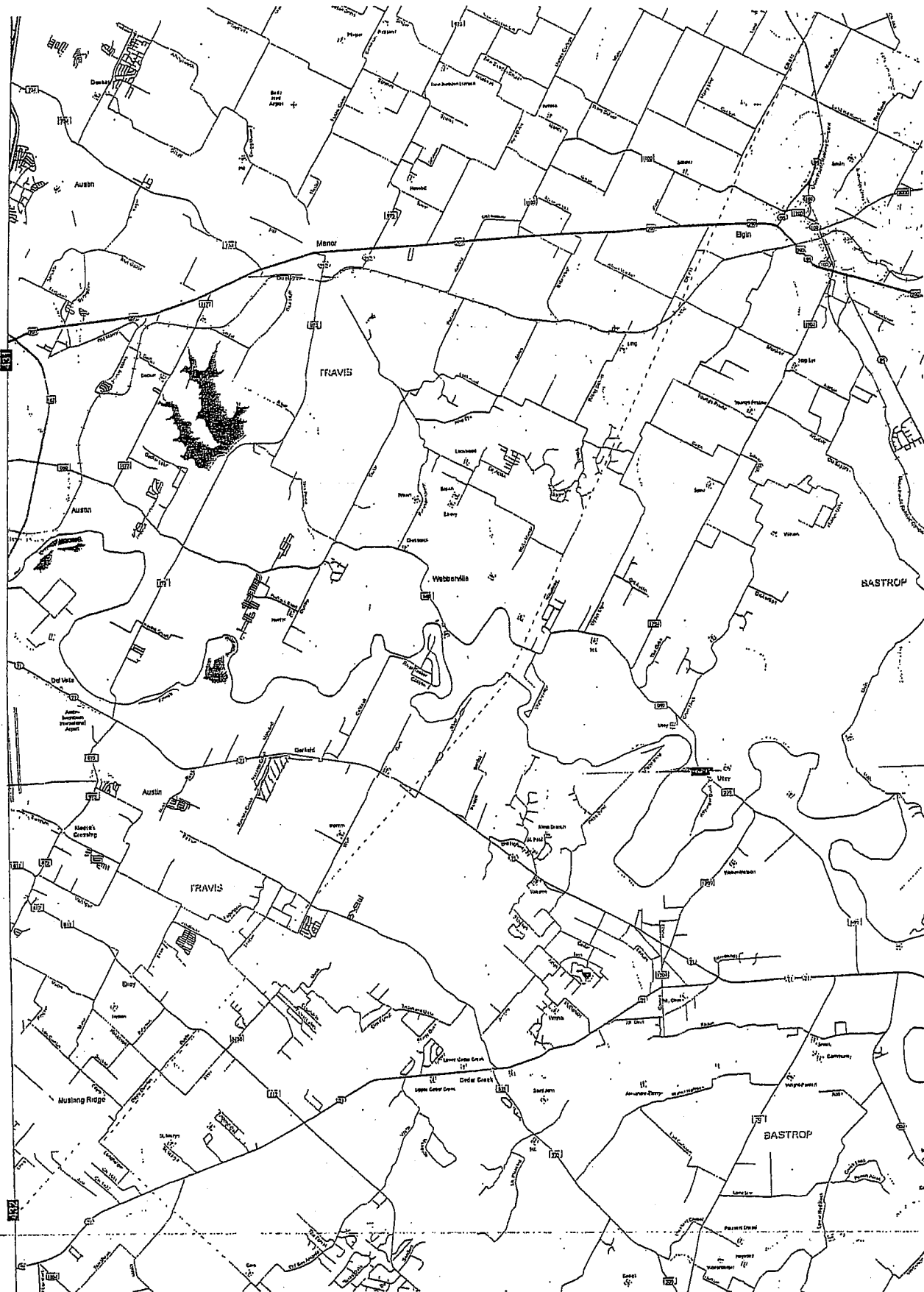
XIV. SPECIAL PROVISIONS:

- A. Maximum annual sludge application rate shall not exceed 11.08 dry tons/acre/year on Fields 1 and 2, 10.89 dry tons/acre/year on Field 3, 11.68 dry tons/acre/year on Field 4, and 1.65 dry tons/acre/year on Field 5; and shall be land applied at a frequency proposed in the application. Agronomic loading rates shall be calculated on an annual basis to ensure that nutrient balances are not exceeded.
- B. All buffer zones and application area must be distinguished from each other by the use of flags, posting or fencing. Application areas (Field 1,2,3,4, and 5) must be distinguished from each other by the use of flags, posting or fencing to ensure that each field is separated.
- C. The permittee should consider nutrient management practices appropriate for land application of sewage sludge and assess the potential risk for nitrogen and phosphorous to contribute to water quality impairment. Information and assistance on a certification program for Nutrient Management Specialists is available on the web at "<http://nmp.tamu.edu>".

Nutrient management should be practiced within the context of the Natural Resources Conservation Service (NRCS) Code 590 Practice Standard which addresses the kind, source, placement, form, amount, timing and application method of nutrients and soil amendments. This is available on the web at "http://efotg.nrcs.usda.gov/references/public/TX/finalTX590_07_09_07.pdf". The 590 Standard should be conducted using the Phosphorus Index, a simple screening tool to rank vulnerability of fields as sources of phosphorus loss to surface runoff. Information on Phosphorus Index is available on the web at "http://efotg.nrcs.usda.gov/references/public/TX/TXTechNote15_rev.pdf". The annual analysis of extractable phosphorus in soil samples should be conducted using the Mehlich III extraction with inductively coupled plasma.

- D. For soils with permeability greater than 2 inches per hour and less than 20 inches per hour, the land application of sludge is prohibited if the soil is saturated or groundwater is present within a depth of 4 feet of the treatment zone as demonstrated through the determination of presence or absence of the perched or apparent water table. Records of monitoring data shall be maintained per 30 TAC §312.47. In the absence of groundwater monitoring, land application is prohibited during months that the most recently published soil survey data indicate that a perched or apparent water table may be present within 4 feet of the treatment zone.
- E. For soils with permeability less than 2 inches per hour, the land application of sludge is prohibited if the soil is saturated or groundwater is present within a depth of 3 feet of the treatment zone as demonstrated through the determination of presence or absence of the perched or apparent water table. Records of monitoring data shall be maintained per 30 TAC §312.47. In the absence of groundwater monitoring, land application is prohibited during months that the most recently published soil survey data indicate that a perched or apparent water table may be present within 3 feet of the treatment zone.
- F. The permittee shall not exceed a daily sludge application rate of 0.5 dry ton/acre/day, with an annual application rate not to exceed the rates stated in the above Special Provision A.
- G. The permittee shall notify the TCEQ Regional Office (MC Region 11) prior to the initial land application of sludge in order for the TCEQ to verify the buffers for all surface water features.

Attachment A



[illegible]

CONTOUR INTERVAL 10 FEET

DOTTED LINES REPRESENT 5-FOOT CONTOURS
NATIONAL GEODETIC VERTICAL DATUM OF 1929

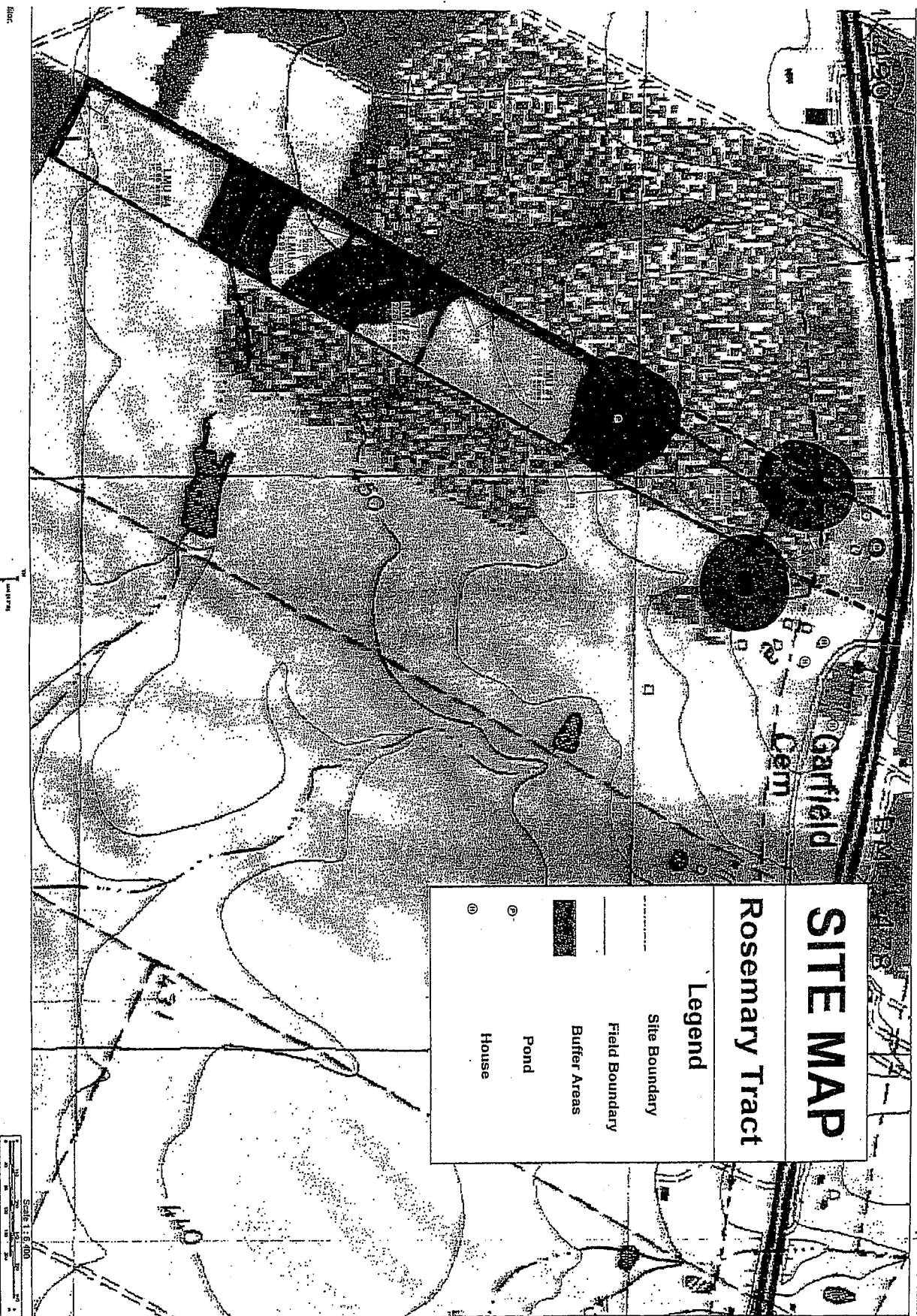
WEBBERVILLE, TEX

NE/4 MONTOPOLIS 15' QUADRANGLE

3.0097-B5-TF-024

QUADRANGLE LOCATIONS

Attachment B
(2 of 2)



Attachment C

Annual Sludge Summary Report Form

Note 1: If your site has more than one land application field, please submit a separate form for each field.

Note 2: Please note, in addition to the summary form, you need to submit all information as required by 30 TAC 312.48.

Note 3: If you operate other registered/permitted sludge land application sites, a form should be submitted for each site.

Note 3. Also send one complete copy of your report and this form to the TCEQ regional office in your area.

For TCEQ Fiscal Year: _____	Reporting period: From September 1, _____ to August 31, _____
Registration No: _____	Date _____
Name of Registrant: _____	
Mailing Address: _____	
Contact Person _____	Name _____ Telephone No: _____

Field No. (if any): _____ (Please submit a separate form for each field).

1. Sewage Sludge:
 - a. Land Applied: _____ dry tons/year
 - b. Disposed Via Monofill: _____ dry tons/year
 - c. Disposed Via MSW Landfill: _____ dry tons/year
 2. Treated Domestic Septage - Land Applied: _____ gallons/year
 - a. Method used to treat Domestic Septage: _____
 3. Water Treatment Plant Sludge:
 - a. Land Applied: _____ dry tons/year
 - b. Dedicated Land Disposal: _____ dry tons/year
 - c. Disposed Via monofill: _____ dry tons/year
- Class A sludge land applied: _____ dry tons / year
- Acreage used for Sludge Application/disposal at this site: _____ acres

Site Vegetation (such as grass type etc) and number of cuttings: _____

Sewage Sludge only – Please provide information regarding the following 3 items:

1. Does any of the sludge you have generated or received NOT MEET the concentration limits for the metals listed in Table 3 of "30 TAC §312.43 (b)"? Yes ☐ No ☐
2. Has your field/site reached or exceeded 90% of the cumulative metal loading rates for any metals as listed in Table 2 of 30 TAC §312.43 (b)"? Yes ☐ No ☐
3. Has sewage sludge been applied to the field/site after 90% of cumulative metal loading rates for any of the metals per Table 2 of "30 TAC §312.43 (b)" been reached? Yes ☐ No ☐

PLEASE MAIL THE COMPLETED ANNUAL REPORT TO:

Texas Commission on Environmental Quality
Municipal Permits Team (MC 148)
Wastewater Permitting Section
P.O. Box 13087
Austin, TX 78711-3087

Attachment D

Quarterly Sludge Summary Report Form

- Note 1. If your site has more than one land application field, please submit a separate form for each field.
Note 2. Please place this sheet at the top of your Quarterly Sludge Report.
Note 3. If you have more than one permitted site, then fill-out this form for each one of those sites.
Note 4. Please send a copy of this sheet and all attachments to the local TCEQ regional office.

For TCEQ Quarter:	Reporting period: From September 1, _____ to August 31, _____
Registration No:	Date _____
Name of Registrant:	_____
Mailing Address:	_____
Contact Person	Name _____ Telephone No: _____

Field No. (if any): _____ (Submit separate form for each field, if site has two or more fields).

Class B Sewage Sludge Land Applied: _____ dry tons /quarter
Treated Domestic Septage - Land Applied: _____ gallons / quarter

Method used to treat Domestic Septage: _____

Water Treatment Plant Sludge - Land Applied: _____ dry tons /quarter

Class A sludge land applied: _____ dry tons /quarter

a. Acreage used for Sludge Application/disposal at this site _____

b. Site Vegetation (such as grass type etc) and #
of cuttings _____

c. Does any of the sludge you have generated or received DOES NOT MEET concentration limits for any of the metals listed in Table 3 of "30 TAC §312.43 (b)"? Yes ☐ No ☐

d. Site location Latitude _____ Longitude: _____

e. Site physical address: _____

Please attach the information regarding the following items (Sewage Sludge only):-

* Please note the following information shall be provided in computer generated report format:

* Please place check mark before each item below to indicate you have attached that item with this report.

- ☐ 1. Metal concentration, pathogen analysis data and vector attraction certifications of sludge for each source.
- ☐ 2. Provide a list containing the name and permit number of each source of sludge.
- ☐ 3. Date of delivery of each load of sludge land applied.
- ☐ 4. Date of land application of each load of sludge.
- ☐ 5. The cumulative metal loading rates for any metals as listed in Table 2 of 30 TAC §312.43 (b)"?
- ☐ 6. The suggested agronomic rate for the class B sludge.

PLEASE MAIL THE COMPLETED ANNUAL REPORT TO:

Texas Commission on Environmental Quality
Municipal Permits Team (MC 148)
Wastewater Permitting Section
P.O. Box 13087
Austin, TX 78711-3087

ATTACHMENT E
DECEMBER 8, 2010
RESPONSE TO PUBLIC COMMENT

TCEQ PROPOSED PERMIT NO. WQ0004887000

770 DEC -8 PM 4:08

APPLICATION BY	§	BEFORE THE
	§	CHIEF CLERKS OFFICE
SYNAGRO OF TEXAS-CDR, INC.	§	TEXAS COMMISSION ON
	§	
	§	ENVIRONMENTAL
	§	QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Synagro of Texas-CDR, Inc. application and Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from State Senator Kirk Watson, State Representative Eddie Rodriguez, David E. Rogers and Victoria T. Rogers, Mr. Jon A. White, and Mr. Russell Williams. Timely comments were received at the public meeting from the following persons: Ms. Rosemary Kalina, Mr. Thomas Weber, and Mr. Russell Williams. After a second round of notice, TCEQ received timely written comments from a letter with 61 signatories, hereafter referred to as Group 1. Group 1 consists of the following individuals:

Alfred Biggs, Evelyn Biggs, Maria Cantu, Bobby Fewell, Jose Luis Cardona, Pedro A. Gomez Marquez, John Morales, Hermelinda Reyes, Aquilino Cruz, Frances Camacho, Raymundo Constancio, Indhira Celaya, Eirasema Torres, Lile Valuerde, Silvia Espinoza, Patricia R. Garcia, Rebecca Garcia, Agustin Calderon, Gabriela Vargas, Esther G. Nunez, Tim Helm, Carlos Guzman, Ana Guzman, Brenda Lightford, Jasmin Aguilar, Xiomara Aguilar, Anahi Benitez, Derald Gutierrez, Jose H. Machuca, Reynaldo Reyes, Alicia Beristain, Juana Beristain, Reyna Venegas, Joe Rodriguez, Daniel Rueda, Jose Hernandez, Dinora Hernandez, Blanca Coronado, Jerome Kalin, Thelma Rios, Marcelino Gonzales, Tina Roberson, Patrick Schumacher, Victoria C. Sifuentes, David Ortiz, Jaime Prieto, Felix Rodriguez, Carmelo Reyes, Gerardo Palomares, Guadalupe Tobias, Susana Rojas, Mario N. Periera, Nancy Tobias, Angel Venegas, Robert Barrientel, Jesse Del Toro, Guadalupe Del Toro, Veronica Guel, Felicitas Ramirez, Maria Del Toro, and Donna Maldonado.

This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

I. BACKGROUND

A. Description of Facility

Synagro of Texas-CDR, Inc. (Applicant) has applied to the TCEQ for a new permit that will authorize the beneficial land application of Class B wastewater treatment sewage sludge at a rate not to exceed 11.08 dry tons per acre per year on Fields 1 and 2, 10.89 dry tons per acre per year on Field 3, 11.68 dry tons per acre per year on Field 4, and 1.65 dry tons per acre per year on Field 5 on 33.6 acres located within approximately 51.82 acres. The draft permit does not authorize the discharge of pollutants into water in the State. The land application site will be located in the drainage basin of Colorado River below Town Lake in Segment No. 1428 of the Colorado Basin. The facility will be located approximately 7 miles east of Austin Bergstrom International Airport off of Richards Drive, 300 feet south of Highway 71, in Travis County, Texas 78617.

B. Procedural Background

The application for a new permit was received on April 3, 2009 and declared administratively complete on May 19, 2009. The Notice of Receipt and Intent to Obtain a Beneficial Land Use Permit (NORI) was published on June 17, 2009 in the *Austin-American Statesman*. The Notice of Application and Preliminary Decision (NAPD) for a Land Application Permit was published on January 6, 2010 in the *Austin-American Statesman*. A public meeting was held on October 1, 2009 in Del Valle, Texas. The Notice of Public Meeting was published on September 1, 2009 in the *Austin-American Statesman*. The public comment period for this round of notice ended on February 5, 2010, and the Executive Director filed a Response to Comments on April 6, 2010.

At the request of the Executive Director, the Applicant published a Combined Notice of Receipt of Application and Intent to Obtain a Beneficial Land Use Permit and Notice of Application and Preliminary Decision for Land Application of Sewage Sludge on September 21, 2010 in the *Austin-American Statesman* and on September 23, 2010 in *iahora sí!*. The Executive Director requested that the Applicant re-publish notice in order to cure deficiencies relating to compliance with alternative language newspaper notice in the first round of notice. The public comment ended on October 25, 2010.

This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- To access the Secretary of State website: www.sos.state.tx.us;
- For TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality");
- For Texas statutes: www.capitol.state.tx.us/statutes/statutes.html;
- To access the TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules");
- For Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm; and
- For Federal environmental laws: www.epa.gov/epahome/laws.htm.

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are also available for viewing and copying at the Travis County Agrilife Extension Office, 1600B Smith Street, Austin, TX.

II. COMMENTS AND RESPONSES

COMMENT 1:

The Honorable Kirk Watson and the Honorable Eddie Rodriguez requested a public meeting to allow their constituents the opportunity to receive information and offer comments for the permit application.

RESPONSE 1:

Under 30 TAC § 55.154 the TCEQ must hold a public meeting when a member of the legislature representing the general area in which the activity is proposed requests that a meeting be held. Accordingly, the TCEQ Office of Public Assistance conducted a public meeting on Thursday, October 1, 2009 at the Del Valle Opportunity Center, Travis County, Texas. Attendees were able to ask questions about the permit application and to provide written or verbal comments.

COMMENT 2:

The Honorable Kirk Watson, the Honorable Eddie Rodriguez, David E. Rogers and Victoria T. Rogers expressed concern that the proposed site will be a wastewater treatment sludge plant or a wastewater treatment plant.

RESPONSE 2:

The proposed activity at the site is a beneficial land application site for Class B sewage sludge, not the operation of a wastewater treatment plant or a wastewater treatment sludge plant. Class B sewage sludge must be treated to meet specific standards set by both the United States Environmental Protection Agency (EPA) and the State of Texas before the stabilized sludge is land applied. The Applicant is required to

apply sludge uniformly over the surface of the land under conditions which prevent runoff of sludge beyond the active application area. The Applicant must also protect the quality of the surface water and the soils in the unsaturated zone. It is also required that sludge be applied at a rate equal to the nitrogen uptake rate of the plants being grown (the agronomic rate), thus ensuring that the nutrients are fully utilized by the plant and none are available for horizontal seepage into groundwater or lateral seepage into surface water bodies. The Applicant is required to land apply sludge at rates no greater than the agronomic rates. Agronomic rate is defined as the whole sludge application rate (dry weight basis) designed to provide the amount of nitrogen needed by the crop or vegetation grown on the land, and to minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater. If the facility fails to comply with the permit or TCEQ rules, it will be subject to enforcement actions.

COMMENT 3:

David E. Rogers and Victoria T. Rogers commented that the proposed site would be next to schools, close to neighborhoods, and across the street from a church that provides a food bank for people who wait outside. The Honorable Eddie Rodriguez expressed a similar concern regarding odors from the proposed activity impacting the neighborhood in the area. Commenters from Group 1 raised issues regarding nuisance odors as well. These commenters noted that many people in the area are accustomed to outdoor recreation and other activities, and that the odors from the land application would greatly reduce their ability to enjoy these outdoor activities.

RESPONSE 3:

The rules governing the land application of treated sewage sludge and domestic septage do not specify that a beneficial land use site must be located outside of city limits, nor do they consider density of surrounding houses and buildings. See 30 TAC Ch. 312. However, under 30 TAC § 312.44(c)(2), permits must include buffer restrictions that prohibit land application to areas located closer than 750 feet to established schools, businesses, or occupied residential structures. Buffer restrictions also prohibit land application to areas located closer than 50 feet to a public right of way or property boundary.

Furthermore, TCEQ has established management requirements for land application sites that are designed to control nuisance conditions, including odor. The TCEQ Rules establish these management requirements, which are then incorporated into the draft permit in Part VI, Required Management Practices. For instance, 30 TAC § 312.44(j)(3) requires the Applicant to operate the proposed land application site in a manner to prevent public health nuisances. The Applicant must prevent debris from blowing or running off site boundaries or into surface waters. The Applicant must minimize dust migration from the site and access roadways, and also minimize objectionable odors through taking corrective actions.

If members of the public experience nuisance conditions from the application area, they may contact the TCEQ Regional Office at (512) 339-2929 or call the toll free 24-hour complaints hot line at 888-777-3186. Citizen complaints may also be filed on-

line at <http://www.tceq.state.tx.us/compliance/complaints/>. On a complaint basis, regional investigators will investigate. If the regional investigator documents a violation of TCEQ regulations or the permit, then appropriate action may be taken, which may include referral for an enforcement action. In addition, the draft permit does not limit the ability to seek legal remedies regarding any potential nuisance or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

COMMENT 4:

Commenters from Group 1 raised a concern that the land application would attract flies to the nearby residential areas.

RESPONSE 4:

Class B sludge intended for beneficial land use is required to be treated to reduce its attraction for vectors, such as flies and mosquitoes, (which limits the potential for transmitting diseases) by reducing odors. 30 TAC§312.83 outlines specific requirement methods for vector attraction reduction, such as a reduction of the volatile solids by 38%, Specific Oxygen Uptake Rate (SOUR) Test, injection of the sludge into the soil, incorporation of the sludge into the soil, etc. Additionally, if the site does attract vectors, this problem is considered to be a nuisance condition, which the permit and rules specifically prohibit. Should such a problem occur, the site operator must take an appropriate step to correct it (such as disking the area) within a short time. The sewage sludge must also be treated in order to reduce the attraction of vectors. As shown in Appendix F of the application, this treatment is being done at each of the wastewater treatment plants that are producing sludge that may be used at this site.

COMMENT 5:

David E. Rogers and Victoria T. Rogers noted that the area of the proposed site is located in an economically disadvantaged area that needs resources to support employment and economic development, not the proposed business.

RESPONSE 5:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have the authority to direct applicants towards the use of alternative sites. Beneficial land use permits evaluated by the agency are reviewed without reference to the socioeconomic or racial makeup of the surrounding community. Although there are no TCEQ rules addressing issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address these issues by creating an environmental equity program within the Office of Public Assistance. This program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that may affect human health or the environment operate without discrimination; and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

Individuals may raise these types of concerns with TCEQ staff through a toll-free number, 1-800-687-4040, or at the following address, phone, and fax numbers:

Office of Public Assistance
Environmental Equity (MC-108)
Texas Commission on Environmental Quality
P.O. Box 13087 Austin, TX 78711-3087
512-239-4000
512-239-4007 (fax)

Additional information can be found on the following TCEQ website:
www.tceq.state.tx.us/comm_exec/opa/envequ.html

COMMENT 6:

Group 1 has commented that the proposed site would cause their property values to be diminished.

RESPONSE 6:

Section 26.027 of the Texas Water Code authorizes TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes and coastal waters. The wastewater permitting process is limited to controlling the discharge of pollutants into state waters and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction under the Texas Water Code or its regulations to address or consider property values or the marketability of adjacent property in its determination of whether or not to issue a water quality permit.

COMMENT 7:

The Honorable Eddie Rodriguez commented that his constituents in the Garfield area of Del Valle were concerned about how toxic materials might affect their neighborhood. David E. Rogers and Victoria T. Rogers expressed concern that material associated with wastewater treatment plant sludge would contain toxic compounds. Commenters from Group 1 expressed concerns over health hazards associated with sludge application, particularly asthma and other respiratory problems.

RESPONSE 7:

The Applicant must comply with detailed management practices designed to protect human health and the environment. This includes recordkeeping requirements and monitoring requirements. See 30 TAC §§ 312.46 and 312.47. The draft permit provides that the Applicant must monitor the sewage sludge for ten metals (arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc) as well as reduce pathogens and vector attraction as required by 30 TAC § 312.46(a)(1). The draft permit, as well as 30 TAC § 312.47(a)(4)(A)(ii), requires the Applicant to record such information as the amount of sludge applied, the number of acres to which sludge is applied, and a description of how the management practices are being met.

COMMENT 8:

Commenters from Group 1 expressed concern over flooding. In particular, commenters noted that several parts of the surrounding area are within the 100 year floodplain and are subject to seasonal flooding in certain low-lying areas. Commenters expressed concern that the application areas may also be within the 100 year floodplain, and that a heavy rain will inundate the surrounding areas with sewage sludge.

RESPONSE 8:

Runoff from land application areas are prohibited under the TCEQ regulations and the draft permit. This draft permit does not authorize discharge of waste into the waters of the State of Texas. TCEQ has established management requirements, in accordance with 30 TAC Section 312.44, which are incorporated into the draft permit to protect against sludge runoff beyond the active application area. The Applicant is required to apply sludge uniformly over the surface of the land under conditions which prevent runoff of sludge beyond the active application area. The Applicant is prohibited from applying sludge during rainstorms or during periods in which surface soils are water saturated, frozen, or snow-covered and in areas having topographical slopes in excess of eight percent. This application area has a slope of less than 8%. Also, it is required that sludge be applied at a rate equal to the nitrogen uptake rate of the plants being grown (the agronomic rate), thus ensuring that the nutrients are completely used by the plants and none are available for lateral seepage, or running off, into surface waters. The draft permit requires the Applicant to cease further sludge application if sludge runoff from the active application area is evident until the condition is corrected. If the facility fails to comply with the permit or rules, it will be subject to enforcement actions.

As with any material used in agriculture, it is likely that small amounts of these materials will be carried off site during major rain events. However, the regulations on the materials and amounts used provide sufficient protection for the surrounding areas, and the large dilution factor from such rain events will prevent any significant contamination of adjacent areas. These materials are no more harmful than other materials commonly used in agriculture.

COMMENT 9:

Mr. Jon A. White, the Director of the Natural Resources and Environmental Quality Division for Travis County, provided comments regarding the inconsistency of this facility with Travis County Code, Chapter 62, relating to siting of solid waste facilities, specifically the location of proposed land application areas within:

- 500 foot setback from the FEMA 100-year flood plain boundary; and
- 1500 foot setback from individual residences

Mr. Thomas Weber of the Natural Resources and Environmental Quality Division for Travis County expressed similar concerns during the public meeting.

RESPONSE 9:

The technical review of the permit application conducted by the Executive Director staff is limited to whether the application complies with all TCEQ rules and regulations. Compliance with certain local regulations is not a prerequisite to a determination that an application is technically complete by the Executive Director. The draft permit does not authorize any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to ensure compliance with all local regulations.

COMMENT 10:

Mr. Jon A. White expressed concern that the application did not indicate appropriate 200-foot buffer zones adjacent to Dry Creek Pass, and that the Applicant does not show a 200-foot buffer from these surface water courses.

RESPONSE 10:

Under 30 TAC § 312.44(c)(1), sludge application sites must maintain a 200-foot buffer zone from surface waters. On August 19, 2009, the TCEQ conducted a site assessment that included inspections and verification of all proposed buffer zones as they pertain to 30 TAC § 312.44. Since it is a surface water course, it was concluded that the area surrounding Dry Creek Pass did require the 200-foot buffer. The Applicant was then notified by the TCEQ of the requirement and the Applicant amended their application to include buffer zones around the appropriate area. The result was a decrease in the application area and the prohibition of land application of sludge in all buffer areas as indicated on Attachment B of the permit. The land application of sludge in these areas would be a violation of the permit.

COMMENT 11:

Mr. Russell Williams has expressed that he does not see any problems with the land application of sewage sludge to his property and urges the TCEQ to approve the application. Also during the public meeting, Ms. Rosemary Kalina indicated that she supports issuing the permit application.

RESPONSE 11:

The Executive Director acknowledges these comments.

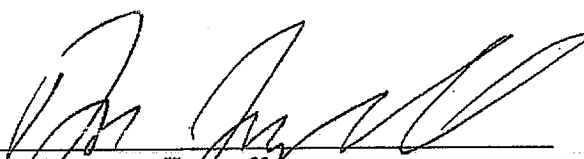
NO CHANGES TO THE DRAFT PERMIT HAVE BEEN MADE IN RESPONSE TO PUBLIC COMMENT.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark Vickery, P.G.
Executive Director

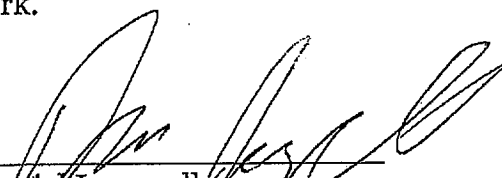
Robert Martinez, Director
Environmental Law Division



Daniel Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062794
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-3668
REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on December 8, 2010, the "Executive Director's Response to Public Comment" for TCEQ Permit No. WQ0004887000 was filed with the Texas Commission on Environmental Quality's office of the Chief Clerk.



Daniel Ingersoll
Environmental Law Division
State Bar No. 24062794

ATTACHMENT F

APRIL 6, 2010

RESPONSE TO PUBLIC COMMENT

TCEQ PROPOSED PERMIT NO. WQ0004887000 2010 APR -6 AM 10: 30

APPLICATION BY § BEFORE THE CHIEF CLERKS OFFICE
SYNAGRO OF TEXAS-CDR, INC. §
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Synagro of Texas-CDR, Inc. application and Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from State Senator Kirk Watson, State Representative Eddie Rodriguez, David E. Rogers and Victoria T. Rogers, Mr. Jon A. White, and Mr. Russell Williams. Timely comments were received at the public meeting from the following persons: Ms. Rosemary Kalina, Mr. Thomas Weber, and Mr. Russell Williams. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

I. BACKGROUND

A. Description of Facility

Synagro of Texas-CDR, Inc. (Applicant) has applied to the TCEQ for a new permit that will authorize the beneficial land application of Class B wastewater treatment sewage sludge at a rate not to exceed 11.08 dry tons per acre per year on Fields 1 and 2, 10.89 dry tons per acre per year on Field 3, 11.68 dry tons per acre per year on Field 4, and 1.65 dry tons per acre per year on Field 5 on 33.6 acres located within approximately 51.82 acres. The draft permit does not authorize the discharge of pollutants into water in the State. The facility will be located approximately 7 miles east of Austin Bergstrom International Airport off Highway 71, south of the intersection of Richard Drive and Highway 71, in Travis County, Texas 78617.

B. Procedural Background

The application for a new permit was received on April 3, 2009 and declared administratively complete on May 19, 2009. The Notice of Receipt and Intent to Obtain a Beneficial Land Use Permit (NORI) was published on June 17, 2009 in the *Austin-American Statesman*. The Notice of Application and Preliminary Decision (NAPD) for a Land Application Permit was published on January 6, 2010 in the *Austin-American Statesman*. A public meeting was held on October 1, 2009 in Del Valle, Texas. The Notice of Public Meeting was published on September 1, 2009 in the *Austin-American Statesman*. The public comment period ended on February 5, 2010. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- To access the Secretary of State website: www.sos.state.tx.us;
- For TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality");
- For Texas statutes: www.capitol.state.tx.us/statutes/statutes.html;
- To access the TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules");
- For Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm; and
- For Federal environmental laws: www.epa.gov/epahome/laws.htm.

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk).

II. COMMENTS AND RESPONSES

COMMENT 1:

The Honorable Kirk Watson and the Honorable Eddie Rodriguez requested a public meeting to allow their constituents the opportunity to receive information and offer comments for the permit application.

RESPONSE 1:

Under 30 TAC § 55.154 the TCEQ must hold a public meeting when a member of the

legislature representing the general area in which the activity is proposed requests that a meeting be held. Accordingly, the TCEQ Office of Public Assistance conducted a public meeting on Thursday, October 1, 2009 at the Del Valle Opportunity Center, Travis County, Texas. Attendees were able to ask questions about the permit application and to provide written or verbal comments.

COMMENT 2:

The Honorable Kirk Watson, the Honorable Eddie Rodriguez, David E. Rogers and Victoria T. Rogers expressed concern that the proposed site will be a wastewater treatment sludge plant or a wastewater treatment plant.

RESPONSE 2:

The proposed activity at the site is a beneficial land application site for Class B sewage sludge, not the operation of a wastewater treatment plant or a wastewater treatment sludge plant. Class B sewage sludge must be treated to meet specific standards set by both the Environmental Protection Agency and the State of Texas before the stabilized sludge is land applied. The Applicant is required to apply sludge uniformly over the surface of the land under conditions which prevent runoff of sludge beyond the active application area. The Applicant must also protect the quality of the surface water and the soils in the unsaturated zone. It is also required that sludge be applied at a rate equal to the nitrogen uptake rate of the plants being grown (the agronomic rate), thus ensuring that the nutrients are fully utilized by the plant and none are available for horizontal seepage into groundwater or lateral seepage into surface water bodies. The Applicant is required to land apply sludge at rates no greater than the agronomic rates. Agronomic rate is defined as the whole sludge application rate (dry weight basis) designed to provide the amount of nitrogen needed by the crop or vegetation grown on the land, and to minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater. If the facility fails to comply with the permit or rules, it will be subject to enforcement actions.

COMMENT 3:

David E. Rogers and Victoria T. Rogers commented that the proposed site would be next to schools, close to neighborhoods, and across the street from a church which provides a food bank for people who wait outside. The Honorable Eddie Rodriguez expressed a similar concern regarding odors from the proposed activity impacting the neighborhood in the area.

RESPONSE 3:

The rules governing the land application of treated sewage sludge and domestic septage do not specify that a beneficial land use site must be located outside of city limits, nor do they consider density of surrounding houses and buildings. See 30 TAC Ch. 312. However, under 30 TAC § 312.44(c)(2), permits must include buffer restrictions that prohibit land application to areas located closer than 750 feet to established schools, businesses, or occupied residential structures. Buffer restrictions also prohibit land application to areas located closer than 50 feet to a public right of way or property boundary.

Furthermore, TCEQ has established management requirements for land application sites that are designed to control nuisance conditions, including odor. The TCEQ Rules establish these management requirements, which are then incorporated into the draft permit in Part VI, Required Management Practices. For instance, 30 TAC § 312.44(j)(3) requires the Applicant to operate the proposed land application site in a manner to prevent public health nuisances. The Applicant must prevent debris from blowing or running off site boundaries or into surface waters. The Applicant must minimize dust migration from the site and access roadways, and also minimize objectionable odors through taking corrective actions.

If members of the public experience nuisance conditions from the application area, they may contact the TCEQ Regional Office at (512) 339-2929 or call the toll free 24-hour complaints hot line at 888-777-3186. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/>. On a complaint basis, regional investigators will investigate. If the regional investigator documents a violation of TCEQ regulations or the permit, then appropriate action may be taken, which may include referral for an enforcement action. In addition, the draft permit does not limit the ability to seek legal remedies regarding any potential nuisance or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

COMMENT 4:

David E. Rogers and Victoria T. Rogers noted that the area of the proposed site is located in an economically disadvantaged area which needs resources to support employment and economic development, not the proposed business.

RESPONSE 4:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have the authority to direct applicants towards the use of alternative sites. Beneficial land use permits evaluated by the agency are reviewed without reference to the socioeconomic or racial status of the surrounding community. Although there are no TCEQ rules addressing issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address these issues by creating an environmental equity program within the Office of Public Assistance. This program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that may affect human health or the environment operate without discrimination; and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

Individuals may raise these types of concerns with TCEQ staff through a toll-free number, 1-800-687-4040, or at the following address, phone, and fax numbers:

Office of Public Assistance
Environmental Equity (MC-108)

Texas Commission on Environmental Quality
P.O. Box 13087 Austin, TX 78711-3087
512-239-4000
512-239-4007 (fax)

Additional information can be found on the following TCEQ website:
www.tceq.state.tx.us/comm_exec/opa/envequ.html

COMMENT 5:

The Honorable Eddie Rodriguez commented that his constituents in the Garfield area of Del Valle were concerned about how toxic materials might affect their neighborhood. David E. Rogers and Victoria T. Rogers expressed concern that material associated with wastewater treatment plant sludge would contain toxic compounds.

RESPONSE 5:

The Applicant must comply with detailed management practices designed to protect human health and the environment. This includes recordkeeping requirements and monitoring requirements. See 30 TAC §§ 312.46 and 312.47. The draft permit provides that the Applicant must monitor the sewage sludge for ten metals (arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc) as well as reduce pathogens and vector attraction as required by 30 TAC § 312.46(a)(1). The draft permit, as well as 30 TAC § 312.47(a)(4)(A)(ii), requires the Applicant to record such information as the amount of sludge applied, the number of acres to which sludge is applied, and a description of how the management practices are being met.

COMMENT 6:

Mr. Jon A. White, the Director of the Natural Resources and Environmental Quality Division for Travis County, provided comments regarding the inconsistency with Travis County Code, Chapter 62 requirements relating to siting of solid waste facilities specifically the location of proposed land application areas within:

- 500 foot setback from the FEMA 100-year flood plain boundary; and
- 1500 foot setback from individual residences

Mr. Thomas Weber of the Natural Resources and Environmental Quality Division for Travis County expressed similar concerns during the public meeting.

RESPONSE 6:

The technical review of the permit application conducted by the Executive Director staff is limited to whether the application complies with all TCEQ rules and regulations. Compliance with certain local regulations is not a prerequisite to a determination that an application is technically complete by the Executive Director. The draft permit does not authorize any

violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to ensure compliance with all local regulations.

COMMENT 7:

Mr. Jon A. White expressed concern that the application did not indicate appropriate 200-foot buffer zones adjacent to Dry Creek Pass, but the Applicant does not show a 200-foot buffer from these surface water courses.

RESPONSE 7:

Under 30 TAC § 312.44(c)(1), sludge application sites must maintain a 200-foot buffer zone from surface waters. On August 19, 2009, the TCEQ conducted a site assessment that included inspections and verification of all proposed buffer zones as they pertain to 30 TAC § 312.44. Since it is a surface water course, it was concluded that the area surrounding Dry Creek Pass did require the 200-foot buffer. The Applicant was then notified by the TCEQ of the requirement and the Applicant amended their application to include buffer zones around the appropriate area. The result was a decrease in the application area and the prohibition of land application of sludge all buffer areas as indicated on Attachment B of the permit. The land application of sludge in these areas would be a violation of the permit.

COMMENT 8:

Mr. Russell Williams has expressed that he does not see any problems with the land application of sewage sludge to his property and urges the TCEQ to approve the application. Also during the public meeting, Ms. Rosemary Kalina indicated that she supports issuing the permit application.

RESPONSE 8:

The Executive Director acknowledges these comments.

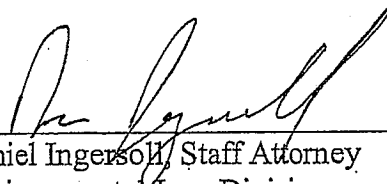
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Respectfully submitted,

Texas Commission on Environmental Quality

Mark Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

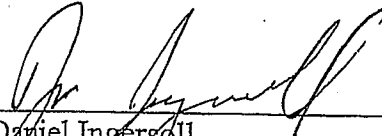


Daniel Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062794
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-3668

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 6, 2010, the "Executive Director's Response to Public Comment" for TCEQ Permit No. WQ0004887000 was filed with the Texas Commission on Environmental Quality's office of the Chief Clerk.



Daniel Ingersoll
Environmental Law Division
State Bar No. 24062794

TEXAS
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ON ENVIRONMENTAL
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